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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/541,020

06/28/2005

Kenji Fujii

Q88147

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

VAKILI, ZOHREH

ART UNIT

PAPER NUMBER

1614

MAIL DATE

DELIVERY MODE

07/09/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/541,020	Applicant(s) FUJII ET AL.	
	Examiner ZOHREH VAKILI	Art Unit 1614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 28-37 are presented for examination.

Applicant's Amendment filed February 7, 2008 has been received and entered into the present application. Claims 28-37 are pending and are herein examined on the merits.

Applicant's arguments, filed February 7, 2008 have been fully considered. Rejections not reiterated from previous Office Actions are hereby withdrawn. The following rejections are either reiterated or newly applied. They constitute the complete set of rejections presently being applied to the instant application.

Claim Rejections - 35 USC § 102 (New Grounds of Rejection)

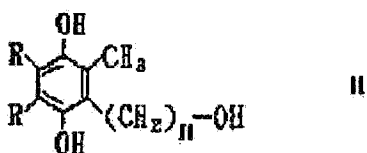
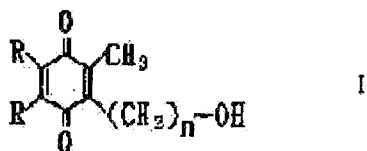
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 28, 29, 30, 32, 33, 34, 35, 36, 37 are rejected under 35 U.S.C. 102(b) as anticipated by Nobuyuki et al. (JP Pat. No. 10053520) (cited on IDS).

Nobuyuki et al. teach compounds to obtain a new antifatigue agent useful for prevention and recovery of physical fatigues and mental fatigue accompanying mental stress (see abstract).



Thus, JP Pat. No. 10053520 disclose all limitations of and anticipate claims 28, 29, 30, 32, 33, 34, 35, 36, 37.

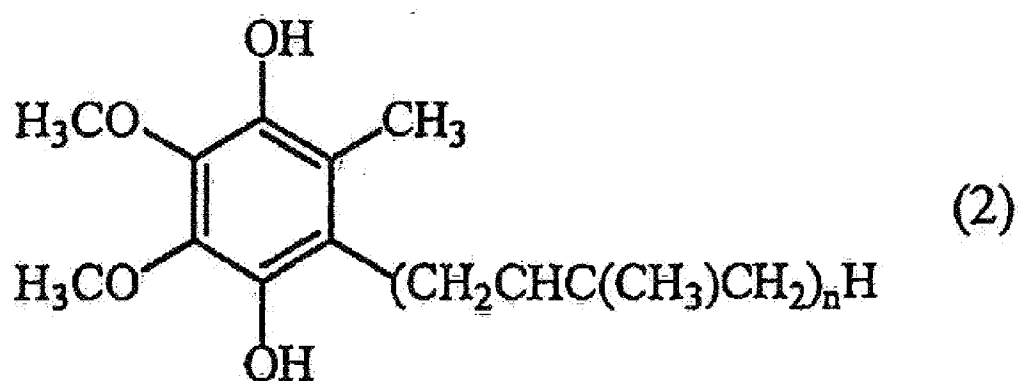
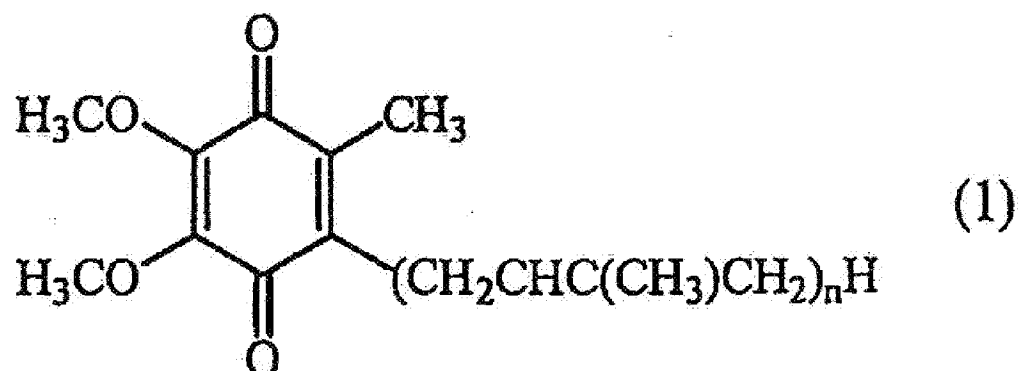
Claims 28, 29, 30, 32, 33, 34, 35, 36, 37 are rejected under 35 U.S.C. 102(b) as anticipated by Lehmann (ZA 200109677 A).

Lehmann teaches pharmaceutical composition comprising a quinone coenzyme, is useful in a nontherapeutic method (claimed) for improving energy production in a person or animal, e.g. in marathon runners, cancer sufferers, sports players, AIDS patients, chronic fatigue syndrome patients and people suffering from stress. Preferred Composition: This comprises coenzyme Q7 (15-360 mg), coenzyme Q8 (15-360 mg), coenzyme Q9 (15-360 mg), coenzyme Q10 (15-360 mg), coenzyme Q12 (15-360 mg) (see abstract).

Thus, Lehmann disclose all limitations of and anticipate claims 28, 29, 30, 32, 33, 34, 36, 37.

Claims 28, 29, and 31 are rejected under 35 U.S.C. 102(b) as anticipated by WO 01/85156 A1 (cited on IDS).

WO 01/85156 A1 teaches dermal compositions containing as the active ingredient oxidized coenzyme Q represented by the following formula (1) wherein n is an integer of from 1 to 12; and/or reduced coenzyme Q represented by the following formula (2) wherein n is an integer of from 1 to 12; wherein the total content of the above oxidized coenzyme Q and the above reduced coenzyme Q amounts to 0.01 to 99% by weight based on the total composition. Compositions for treating skin diseases, cosmetic compositions, skin health care compositions and bathing compositions each comprising the above. described dermal compositions. A method of treating skin diseases which comprises applying the above described dermal compositions to patients with skin diseases; or a method of floating skin diseases which comprises applying to patients with skin diseases the above-described dermal compositions simultaneously with remedies for skin diseases other than the above oxidized coenzyme Q represented by the formula (1) and the above reduced coenzyme Q represented by the formula (2) (see abstract).



Thus, WO 01/85156 A1 disclose all limitations of and anticipate claims 28, 29, and 31.

Applicant's argument's regarding the rejections of claims 1-27 are moot.

Applicant's amendments and remarks have been carefully considered in their entirety, but fail to be persuasive in establishing error in the propriety of the present rejection.

Conclusion

No claims of the present application are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zohreh Vakili whose telephone number is 571-272-3099. The examiner can normally be reached on 8:30-5:00 Mon.-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1614

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Zohreh Vakili

Patent Examiner

May 27, 2008

1614

/Ardin Marschel/

Supervisory Patent Examiner, Art Unit 1614

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